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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,496	02/12/2007	Erich Bott	2003P01124WOUS	9869
46726 7590 02/07/2011 BSH HOME APPLIANCES CORPORATION INTELLECTUAL PROPERTY DEPARTMENT 100 BOSCH BOULEVARD NEW BERN, NC 28562				
EXAMINER				
GRANT, ALVIN J				
ART UNIT		PAPER NUMBER		
3723				
NOTIFICATION DATE		DELIVERY MODE		
02/07/2011		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

NBN-IntelProp@bshg.com

# Office Action Summary

**Application No.**

10/567,496

**Applicant(s)**

BOTT ET AL.

**Examiner**

ALVIN J. GRANT

**Art Unit**

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 November 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 21-36 and 40**, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Herron Jr. 4,970,753.

**Regarding claims 21-26**, Herron discloses a vacuum cleaner comprising a housing and an exhaust opening (**at 48**) that is fluidically connected to an overpressure side of a motor/blower unit (**26**) which is surrounded by an insulating capsule (formed by the U-shaped portion (**42**)) and which is placed inside a blower housing via duct that has a duct section (**38,40**) which is arranged while extending between the insulating capsule and the blower housing, wherein a first capsule part of the insulating capsule is joined to a portion of the blower housing while forming a single piece (**2:61-3:20**), wherein the housing part of the blower housing is a blower compartment cover on which a second capsule part of the insulating capsule is molded (**2:36-59**); a main flow channel for a main air flow is arranged so that it runs between the blower compartment cover and the second capsule part with an inflow opening formed in the blower compartment cover and discharging air flow from the blower compartment (**2:53-60**); the main flow channel is arranged so that it runs behind an end of the motor/blower unit opposite to a suction opening (**Fig. 1**); at least one auxiliary flow channel for an auxiliary air flow is arranged

so that it runs between the blower compartment cover and the second capsule part (Fig. 2); respectively at least one auxiliary flow channel is arranged so that it runs at the side of the motor/blower unit (Figs. 1 and 2); the auxiliary flow channels have a rectangular cross-section and extend substantially vertically (Figs. 1-2; and 4:6-16);

**Regarding claims 27-29**, see Figs. 1 and 3; and 4:61-68.

**Regarding claims 30-36**, see Figs. 1-3; and 4:1-5.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 37-39** are rejected under 35 U.S.C. 103(a) as being unpatentable over Herron Jr. in view of Moshenrose et al. US 2005/0210628  
Herron Jr. is described above. Herron Jr. does not specifically disclose the housing part of the blower comprising a holder for receiving a bearing element for the motor/blower unit. Moshenrose et al. discloses a vacuum cleaner fan unit in which the housing part of the blower comprises a holder for receiving a bearing element for the motor/blower unit so as to facilitate ease of periodic inspection and maintenance of the unit. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made Herron Jr.'s apparatus to have the housing part of the blower to comprise a holder for receiving a bearing element for the motor/blower unit as taught by

Moshenrose et al. so as to facilitate ease of periodic inspection and maintenance of the unit.

***Response to Arguments***

1. Applicant's arguments filed 11/22/10 have been fully considered but they are not persuasive.
2. In response to Applicant's argument that US Patent 4,970,753 (to Herron, Jr.) discloses a U-shaped wall structure when a capsule is claimed, the U-shaped abuts the section at (28) thus encapsulating the motor (26). The baffle also forms a capsule.
3. In response to Applicant's argument that Heron, Jr. does not disclose a cover having a capsule since a cover is not even shown, the cover inherently has a capsule since the purpose is to a *suction* compartment, then the motor would have to be encapsulated from above as well, except for the exhaust ports.
4. In response to Applicant's argument that Herron, Jr. does not disclose the capsule wall sections of the first capsule part and the capsule wall sections of the second capsule part being arranged that they overlap, it is inherent that the walls overlap if the compartment is encapsulated, since the airflow baffle is supported within the noise reduction compartment.
5. In response to Applicant's argument that US PG Pub. 2005/0210628 (to Moshenrose) with Herron, Jr. does not teach claims 27-39, it is not required that the prior art disclose or suggest the properties newly-discovered by an applicant in order for there to be a prima facie case of obviousness. See *In re Dillon*, 919 F.2d 688, 16

USPQ2d 1897, 1905 (Fed. Cir. 1990). Moreover, as long as some motivation or suggestion to combine the references is provided by the prior art taken as a whole, the law does not require that the references be combined for the reasons contemplated by the inventor. See *In re Beattie*, 974 F.2d 1309, 24 USPQ2d 1040 (Fed. Cir. 1992); *In re Kronig*, 539 F.2d 1300, 190 USPQ 425 (CCPA 1976) and *In re Wilder*, 429 F.2d 447, 166 USPQ 545 (CCPA 1970).

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALVIN J. GRANT whose telephone number is (571)272-4484. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. J. G./  
Examiner, Art Unit 3723

***/Joseph J. Hail, III/  
Supervisory Patent Examiner, Art Unit 3723***